IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2292 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA sd/-
and
Hon'ble MR.JUSTICE N.G.NANDI sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PREMJIBHAI VIRAMBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2292 of 2001
MR BB NAIK for Petitioners No. 1-15
MR SP SEN, A.G.P. for Respondents No. 1-2

CORAM : MR.JUSTICE B.J.SHETHNA
and
MR.JUSTICE N.G.NANDI

Date of decision: 10/01/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE B.J.SHETHNA)

1. 15 unfortunate petitioners have filed this joint petition praying that the respondents be directed to pass Award for compensation for their agricultural lands, the possession of which was taken by the respondents way back in 1994, at the earliest.

2. All the petitioners are residents of village Shika, Taluka Dhansura, District Sabar Kantha. They are all agriculturists. They were maintaining themselves from the income of their agricultural lands, the possession of which was taken by the respondents in 1994, for public purpose of constructing "Majum Irrigation Canal Scheme". Notification u/s.4 of the Land Acquisition Act (for short "the Act") was issued on 26.1.1995 and Section 6 notification was issued on 15.2.1996. Notice for compensation was issued u/s.9 on 29.12.1997 and the hearing was to take place on 16.1.1998, but because of some queries the effective hearing could not take place and the matter could not be decided till 15.2.1998, the day on which limitation was over for passing the Award u/s.11 of the Act. It is unfortunate that no steps were taken in the matter though the representation came to be made on 13.10.2000 by the petitioner for compensation which was duly received by the respondent on 25.10.2000. At last they had to approach this Court by way of this writ petition in March, 2001.

3. The Division Bench of this Court straightway admitted this petition on 4.4.2002 and fixed it for final hearing on 18.4.2001 by making the Rule returnable. On 18.4.2001 time was sought by learned A.G.P. Shri Mukesh Patel for the respondent for seeking instruction and the time was granted upto 3.5.2001. However, thereafter the matter could be placed only on 6.12.2001 before another Bench and it was kept on 26.12.2001. For some or the other reason it could not be placed on that date and it is placed today for hearing before us.

4. Shri D.B.Shah, Deputy Collector and Special Land Acquisition Officer and Rehabilitation, Dharoi Watrak & Other Irrigation Scheme, Himmatnagar has filed reply Affidavit dated 15.9.2001, wherein it is stated that ...."The time limit to make the award under Section 11(1) of the Act is expired on 15.2.98 which was lapsed because of the reason that I have returned the proposal to the acquiring body on 8.6.99 explaining about the query with respect to alignment of canal and hence the award is not

made within the limitation period as provided by the Act and hence the notification under Section 4 and 6 are deemed to be cancelled. I further say and submit that I again asked for revised proposal from the acquiring body as the survey no.85 of the petitioner's nos.1 and 2 were not covered under joint measurement on dtd.-/7/1993 and after receiving the revised and fresh proposal of Land Acquisition of Sikka village from acquiring body my office requires minimum period of 18 months for making the award under Section 11(1) and hence, a time is required to complete the formalities and proceedings as envisaged under the various provisions of the Act. In view of the aforesaid difficulty the further compensation could not be made to the petitioners herein."

It is further stated that ..."I say and submit that my office received the representation dtd. 13.10.2000 on 25.10.2000 and as I have stated in the earlier paras the revised proposal was asked from the acquiring body for making them for completing the formalities and proceedings under Section 4,6 and 9 of the Land Acquisition Act."

In Para : 7 of the said Affidavit it is further stated that ..."I say and submit that as the queries with regard to alignment of canal have been asked from the acquiring body and during that period that limitation for making an award under Section 11(1) was expired on 15-2-98 and hence the revised proposal from acquisition body is required and after receipt of the revised proposal minimum 18 months period is required for making under Section 11 and after completing the formalities and proceedings of the various provision of the Land Acquisition Act. The Award will be made by my office.

In Para : 9 of the said Affidavit, it is stated that ..."I say and submit that the possession of the lands have been already taken by acquiring body by paying the lump sum amount and as the award under Section 11(1) could not be sanctioned within the time limit as stated in the foregoing paras and hence, in view of that matter the new revised proposal from the acquiring body is required to be made to my office and after receipt that said revised proposal the reasonable time that is 18 months are required to complete all formalities and proceedings under section 4,6 and 9 of the Act and hence in view of the aforesaid facts and circumstances the proper order may be passed.

5. Thus, the facts stated in the petition by the petitioners that though the possession of the land was taken by the respondents way back in 1994 but till today they have not been paid full compensation so far is not denied. By paying some lumpsum amount at the time of

taking possession would not be sufficient. In the instant case we have noticed that as usual bureaucracy have prevailed in raising the query and not satisfying the same at the earliest. The respondents have prayed for 18 months which according to them is reasonable for paying compensation, which in our considered opinion is ridiculous. They should have paid the compensation by now to all the petitioners after taking possession of their land since 1994. Not only that the construction of canal has already been completed since long. In such type of cases under the guise that some queries were raised therefore they would need time upto 18 months is most unreasonable.

6. Under the circumstances we direct the respondents to pass final award for compensation for the agricultural land of the petitioners in accordance with law at the earliest and in any case not later than 30th April 2002. We make it clear that on any ground the time limit shall not be extended. If they failed to comply with this order then it will be viewed very seriously and whosoever is responsible will have to p
pocket.

7. Before parting we must state that learned A.G.P. Shri Sen has assured us that the order of this Court shall be complied with in its letter and spirit at the earliest by the Authority and therefore we have refrained ourselves from awarding cost otherwise we would have award the personal costs.

With these observations and direction this petition stand allowed.

sd/-
(B.J.Shethna, J.)

Date : January 10, 2002 sd/-
(N. G. Nandi, J.)

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